

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

FILED
RICHARD W. NAGEL
CLERK OF COURT

JAN -4 PM 3:22

U.S. DISTRICT COURT
SOUTHERN DIST OHIO
WEST DIV CINCINNATI

KARL FUGATE

- PLAINTIFF

VS.

RON ERDOS, ET AL.,

- DEFENDANTS

CASE NO. 1:19-CV-00030

JUDGE MATTHEW McFARLAND
MAG. J. STEPHANIE K. BOWMAN

PLAINTIFF'S RESPONSE TO ERDOS' REPLY IN SUPPORT
OF HIS CROSS-MOTION FOR SUMMARY JUDGMENT

PLAINTIFF DRAWS THIS COURT'S ATTENTION TO THE DEFENDANT'S EMPHASIS ON HOW HE "ADMITS THAT PORTERS HAVE ACCESS TO J-1 DURING SECOND SHIFT" - A FACT WHICH TURNS OUT TO NOT BE TRUE, AND SO WHICH THE PLAINTIFF HEREWITH WITHDRAWS HIS ADMISSION OF.

THE MISTAKE WAS MADE BECAUSE IT ISN'T ACTUALLY KARL FUGATE WHO'S THE AUTHOR OF THIS LEGAL WORK, BUT RATHER ANOTHER INMATE WHO'S HANDLING THIS CASE FOR HIM. NAMELY ME. WHILE I HAVE INDEED BEEN AT S.O.C.F. I'VE NEVER ACTUALLY BEEN IN J-1, AND SO WASN'T AWARE OF THE FACT THAT J-1 DOESN'T RUN ITS PORTERS LIKE OTHER ISOLATION BLOCKS AT S.O.C.F.

MR. FUGATE HAS MADE ME AWARE OF MY ERROR AND HAS ASKED THAT IT BE CORRECTED, AS I DO TODAY. IT TURNS OUT THAT J-1 ONLY ALLOWS ITS PORTER IN DURING 1ST SHIFT, AND HE'S TYPICALLY GONE BY 9 A.M. THIS FACT BEING VERIFIABLE BY VIDEO-

KITE PROCEDURE

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Unit:	Lock:	Assignment:		
To:				

FOLD HERE	
CASE MANAGER	WARDEN
CLASSIFICATION	DEPUTY WARDEN
COMMISSARY	ADMINISTRATION/ SPECIAL SERVICES/ PROGRAMS
DENTAL	DEPUTY WARDEN OPERATIONS
USE HEALTH SERVICES REQUEST FORM, DRC5373 TO ACCESS DENTAL CARE	INST. INSPECTOR
MEDICAL	INVESTIGATOR
USE HEALTH SERVICES REQUEST FORM, DRC5373 TO ACCESS MEDICAL CARE	JOB COORDINATOR
LIBRARY	UNIT MANAGER
MAIL ROOM	EDUCATION
FOOD SERVICE	RECREATION
RECOVERY SERVICES	RELIGIOUS SERVICES
OTHER	

DRC 2005 (Rev. 08/2014)

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TAPE: THERE BEING CAMERAS WHICH COVER EVERY INCH OF J-1 AND THE ACTIVITIES THEREIN - AS CAMERAS COVER NEARLY EVERY SQUARE FOOT OF S.O.C.F. IN ITS ENTIRETY, TOO. PART OF THE PLAINTIFF'S DISCOVERY REQUEST WAS THE FOOTAGE SPANNING THE COURSE OF THE 30-DAY, MULTI-SHIFT SHAKEDOWN REGIMINE THAT HE WAS SUBJECT TO HERE - BUT WHICH THE DEFENDANT HAS FAILED TO PROVIDE.

PLAINTIFF HEREWITH MAKES THAT REQUEST AGAIN, IN THE PRESENCE OF THE COURT. WE HAVE TO BE SURE THAT THE FOOTAGE THEY PROVIDE IS ACTUALLY OF J-1 AND NOT SOME OTHER ISOLATION BLOCK, AND THAT IT ISN'T FOOTAGE TAKEN FROM A PERIOD AFTER THEY BECAME AWARE THAT THE ISSUE OF A 2ND SHIFT PORTER-PRESENCE WAS GOING TO BE A FACTOR IN THIS CASE. DECEPTIVE, THESE PEOPLE ARE.

SPEAKING OF WHICH, ALLOW ME A FEW WORDS ON THIS RECENTLY-SUBMITTED DECLARATION OF DEFENDANT ERDOS. DOC #73.

TO JUSTIFY THEIR EXTRAORDINARY SHAKEDOWN REGIMINE THE DEFENDANTS EMPHASIZE HOW THE STRIPPED-BARE PLAINTIFF COULDN'T POSSIBLY SECURED A NEW WEAPON FOR HIMSELF, WHILE IN HIS STEEL-CLAD, MULTI-LAYERED SHELL. A POTENTIAL CONTRABAND SOURCE BEING THE PORTER, THEY SAY: A FACT THAT THEY'VE NOW TROTTERED OUT DEFENDANT ERDOS TO SUBSTANTIATE.

DURING HIS TIME AT S.O.C.F., HE SOLEMNLY SWEARS, CONTRABAND HAS BEEN FOUND ON AN INMATE LOCATED IN A J-1 SLAMMER CELL. A QUESTION THAT I'D LIKE TO ASK MR. ERDOS IS HOW LONG HAVE YOU BEEN THE WARDEN AT S.O.C.F., EXACTLY? THE ANSWER BEING AT LEAST A FEW YEARS, A PERIOD OF TIME DURING WHICH AT LEAST A FEW HUNDRED INMATES HAVE CYCLED THROUGH J-1. OVER ALL THESE YEARS, OUT OF ALL THESE INMATES, CONTRABAND WAS FOUND ON A SINGLE ONE OF THEM, YOU SAY? SOUNDS LIKE YOU HAVE A SERIOUS CONTRABAND-PROBLEM ON YOUR HANDS

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THERE, SIR. FORGIVE MY SARCASTIC TONE.

ALSO NOTE THAT IT WASN'T STATED EXACTLY WHAT THIS CONTRABAND WAS, WHICH IS INDICATIVE OF THE FACT THAT IT WASN'T ANYTHING SERIOUS AT ALL. IT COULD'VE BEEN A COUPLE CUPS OF "HOOGH" MADE FROM FOOD-MATERIALS DELIVERED TO THE INMATES CELL BY GUARDS, OR SOMETHING AS MINESCULE AS A TIN FOIL BUBBLE-GUM WRAPPER DROPPED ON THE FLOOR BY THOSE SAME GUARDS. DO PROVIDE US A COPY OF THE CONDUCT REPORT WRITTEN ON THIS INCIDENT, SO THAT THE COURT CAN SEE EXACTLY HOW DISINGENUOUS YOU'RE BEING HERE.

AND HERE IT APPEARS THAT THE DEFENDANTS HAVE QUITE SEVERELY UNDERMINED THEIR OWN POSITION - AS LIARS TEND TO DO IF YOU LET THEM RUN OFF AT THE MOUTH LONG ENOUGH. THE DEFENDANTS HAVE PREVIOUSLY STATED THAT IT'S LONG BEEN STANDARD OPERATING PROCEDURE FOR S.O.C.F. STAFF TO SHAKE ALL J-1 SLAMMER-CELL INMATES DOWN ON BOTH 1ST AND 2ND SHIFT EVERYDAY, DAY AFTER DAY AND MONTH AND MONTH. SO DURING THE MANY YEARS THAT DEFENDANT ERDOS HAS BEEN THE WARDEN AT S.O.C.F. HE'S HAD TO OF PRESIDED OVER THOUSANDS OF SHAKEDOWNS INVOLVING J-1 INMATES, NO? AND OUT OF ALL THOSE THOUSANDS OF SHAKEDOWNS JUST A SINGLE INMATE WAS FOUND TO BE POSSESSION OF CONTRABAND. WHICH WAS WHAT, A BUBBLEGUM WRAPPER?

IT SEEMS TO ME THAT YOU GOT AN EXTRAORDINARILY AIRTIGHT HOUSING LOCATION BACK THERE IN YOUR J-1 DUNGEON. BY THE DEFENDANTS OWN ADMISSION THERE IS NO CONTRABAND-PROBLEM IN NEED OF BEING STAYED ATOP OF BACK THERE IN J-1, AND SO THEY THEREWITH GIVE LIE TO THEIR EXCUSE REGARDING THE NEED TO SUBJECT PLAINTIFF FUGATE TO THE EXTRAORDINARILY SEVERE SHAKEDOWN REGIMINE THAT THEY DID OVER THE COURSE OF THIS 30-DAY PERIOD IMMEDIATELY FOLLOWING HIS ASSULT UPON ONE OF THEIR STAFF. FOR WHICH THEY SOUGHT RETRIBUTION.

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MENTAL HEALTH				

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SO AS FOR THE QUESTION AS TO WHETHER OR NOT DEFENDANT ERDOS IS ENTITLED TO QUALIFIED IMMUNITY, THE ANSWER IS CLEARLY NOT. IN LIGHT OF THE EVIDENCE PRESENTED BY THE DEFENDANTS THEMSELVES, THERE WAS CLEARLY NO NEED FOR HIM TO SUBJECT THE PLAINTIFF TO THE SHOCKINGLY ABUSIVE SHAKEDOWN AND STRIP-SEARCH REGIMINE THAT HE DID.

SCHER V. ENGELKE, 943 F.2d 921, 923-24 (8TH CIR. 1991)

THE DEFENDANTS ASSERT THAT I HAVEN'T PROVIDED A ROBUST ENOUGH "CONSENSUS OF CASES" TO PROPERLY SUPPORT THE PLAINTIFFS POSITION HERE. IN RESPONSE ALLOW ME STATE THAT I AM NO LEGAL EXPERT AND MY RESEARCH-CAPACITY IS RATHER LIMITED HERE - AND EVEN IF IT WAS MORE THAN IT PRESENTLY IS, I THINK I'D STILL PREFER TO RELY ON THE STRENGTH OF FACTS AND LOGIC RATHER THAN TO PUNCTUATE A COMPOSITION FULL OF DISJOINTED, MEANINGLESS SENTENCES WITH A SLEW OF CASE-CITATIONS. THIS COURT IS NO DOUBT FULLY AWARE OF ALL THE RELEVANT CASE-LAW, AND I TRUST IT TO PROPERLY WEIGH THE FACTS OF THIS CASE AGAINST THE LAW'S DICTATES.

A COUPLE FINAL POINTS BEFORE I SIGN OFF HERE, ON BEHALF OF PLAINTIFF FUGATE. THE FIRST ONE BEING A RESPONSE TO THE DEFENDANTS REPEATED EMPHASIS ON THE FACT THAT THE STRIP-SEARCHES UNTO WHICH THE PLAINTIFF WAS SUBJECT HERE WEREN'T CONDUCTED IN FRONT OF OTHER INMATES OR FEMALE STAFF. NO, THEY WERE JUST CONDUCTED BY THE SAME JAIL PERSONNEL WHO BRUTALLY BEAT HIM IN THAT TORTURE ROOM DOWN IN THE INFIRMARY.

WHETHER OR NOT THE NEARLY 100 STRIP-SEARCHES THAT THE PLAINTIFF WAS SUBJECTED TO DURING THIS 30-DAY PERIOD WERE CONDUCTED IN FRONT OF OTHER INMATES IS QUITE IRRELEVANT. DOES IT MAKE MUCH OF A DIFFERENCE WHETHER A MAN IS BEAT BY ROGUE GOVERNMENT OFFICIALS IN PRIVATE, RATHER THAN IN PUBLIC? THE

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CONSTITUTIONAL VIOLATIONS HERE AREN'T BECAUSE THE PLAINTIFF WAS STRIPPED BEFORE OTHERS, BUT BECAUSE THEY OCCURRED IN THE MALICIOUSLY REPETITIVE MANNER THAT THEY DID. JUST TO CLEAR THAT UP.

FINALLY, THE PLAINTIFF MUST COMMENT UPON ALL OF THE DECLARATIONS THAT THE DEFENDANTS HAVE PROVIDED THE COURT. DECLARATIONS FROM THE COHORTS THEMSELVES; ALONG WITH THEIR FRIENDS AND VARIOUS CO-WORKERS. NOW WHAT WOULD THE ATTORNEYS FOR THE DEFENDANTS SAY ABOUT THE PLAINTIFF'S OWN DECLARATION, AND THOSE OF HIS IMMEDIATE FRIENDS? SURELY IT'D BE SOMETHING ABOUT THEIR SELF-SERVING AND THUS UNRELIABLE NATURE. YES, DITTO.

IT FEELS AS THOUGH THE DEFENDANTS THINK THEMSELVES TO HAVE PROVIDED THE COURT WITH A DEGREE OF EVIDENCE THAT IT JUST CAN'T IGNORE, A LOAD THAT WILL FORCE THE COURT TO RENDER JUDGMENT IN THEIR FAVOR. THIS DECLARATORY EVIDENCE IS INDEED A LOAD, BUT NOT OF ANYTHING POSSESSED OF GENUINE QUALITY - OR A PLEASANT SMELL. IN FACT THE VIDEO EVIDENCE DEFINITELY EXPOSES ALL THOSE DECLARATIONS AS OUTRIGHT LIES.

THE VIDEO SHOWS THAT THE PLAINTIFF HAD NO WOUNDS ON HIS HEAD AS HE WAS BEING ESCORTED FROM THE HEARING-ROOM TO THE INFIRMARY, AND SO THAT IS ALL THE COURT NEEDS TO DETERMINE WHOSE VERSION OF EVENTS IS THE AUTHENTIC ONE HERE.

RESPECTFULLY SUBMITTED,

SIGNED AND VERIFIED THE 24TH
DAY OF DECEMBER, 2020.

* Karl Fugate

KARL FUGATE # A528-949
O.S.P.

878 COERSVILLE-HUBBARD RD,
FOUNDTOWN, OH 44505

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12-24-20

DEAR CLERK FOR THE U.S. DISTRICT COURT,

PLEASE FIND ENCLOSED PLAINTIFF KARL FUGATE'S RESPONSE TO THE DEFENDANTS CROSS-MOTION FOR SUMMARY JUDGMENT IN CASE NO. 1:19-CV-00030.

UNFORTUNATELY DUE TO THE COVID-19 PANDEMIC MY INSTITUTION'S LEGAL AID HAS BEEN ORDERED TO STAY HOME, AND SO I'M UNABLE TO PROVIDE MY CUSTOMARY 5 COPIES. I DO APOLOGIZE, BUT THIS DOCUMENT ABSOLUTELY NEEDS TO BE FILED. THANK YOU FOR YOUR ASSISTANCE HERE.

SINCERELY,

* Karl Fugate

KARL FUGATE #A528-949
O.S.P.

878 COATESVILLE HUBBARD RD.
YOUNGSTOWN, OH 44505

• ccFile •

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Thomas Klein #4535-885
O.S.P.
878 Crossville-Hubbard Rd.
Jonestown, Ohio 44305

Cincinnati, Ohio #2 P&B 452 210
THU 31 DEC 2020 PM

CLERK FOR THE:

U.S. District Court; Southern Dist. of Ohio

Porter Stewart U.S. Courthouse

100 EAST FIFTH STREET (Room 103)

CINCINNATI, OHIO 45202

